

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

IN RE: Jorge M. Prieto

CASE NO: 20-01131

**DECLARATION OF MAILING  
CERTIFICATE OF SERVICE**

Chapter: 11

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On 2/2/2021, I did cause a copy of the following documents, described below,

Supplemental Summons

Verified Complaint

to be served for delivery by the United States Postal Service, via First Class United States Mail, postage prepaid, with sufficient postage thereon to the parties listed on the mailing list exhibit, a copy of which is attached hereto and incorporated as if fully set forth herein.

I caused these documents to be served by utilizing the services of BK Attorney Services, LLC d/b/a certificateofservice.com, an Approved Bankruptcy Notice Provider authorized by the United States Courts Administrative Office, pursuant to Fed.R.Bankr.P. 9001(9) and 2002(g)(4). A copy of the declaration of service is attached hereto and incorporated as if fully set forth herein.

Parties who are participants in the Courts Electronic Noticing System ("NEF"), if any, were denoted as having been served electronically with the documents described herein per the ECF/PACER system.

DATED: 2/2/2021

/s/ Norma Ortiz  
Norma Ortiz 2206530  
Ortiz & Ortiz, LLP  
35-10 Broadway, Suite 202  
Astoria, NY 11106  
718 522 1117

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

IN RE: Jorge M. Prieto

CASE NO: 20-01131

**CERTIFICATE OF SERVICE  
DECLARATION OF MAILING**

Chapter: 11

On 2/2/2021, a copy of the following documents, described below,

Supplemental Summons

Verified Complaint

were deposited for delivery by the United States Postal Service, via First Class United States Mail, postage prepaid, with sufficient postage thereon to the parties listed on the mailing list exhibit, a copy of which is attached hereto and incorporated as if fully set forth herein.

The undersigned does hereby declare under penalty of perjury of the laws of the United States that I have served the above referenced document(s) on the mailing list attached hereto in the manner shown and prepared the Declaration of Certificate of Service and that it is true and correct to the best of my knowledge, information, and belief.

DATED: 2/2/2021



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Jay S. Jump  
BK Attorney Services, LLC  
d/b/a certificateofservice.com, for  
Norma Ortiz  
Ortiz & Ortiz, LLP  
35-10 Broadway, Suite 202  
Astoria, NY 11106

PARTIES DESIGNATED AS "EXCLUDE" WERE NOT SERVED VIA USPS FIRST CLASS MAIL  
PARTIES WITH A '+' AND DESIGNATED AS "CM/ECF E-SERVICE" RECEIVED ELECTRONIC NOTICE THROUGH THE CM/ECF SYSTEM

FIRST CLASS

ELMHURST ASSET  
C/O MUXIU LI  
36-43 CLEARVIEW EXPRESSWAY  
BAYSIDE NY 11361

FIRST CLASS

ROSA PRIETO  
102-22 MARTENSE AVENUE  
APT. #2  
CORONA NY 11368

**UNITED STATES BANKRUPTCY COURT  
Eastern District of New York**

*NOTE: All documents filed in this matter must be identified by both adversary and bankruptcy case numbers, case chapter and judge's initials.*

In re: Jorge Miguel Prieto

Bankruptcy Case No.: 1-20-40402-jmm

Jorge Miguel Prieto

Plaintiff(s),

-against-

Rosa Prieto  
Elmhurst Assets LLC

Adversary Proceeding No. 1-20-01131-jmm

Defendant(s)

**SUPPLEMENTAL SUMMONS AND NOTICE OF PRETRIAL CONFERENCE  
IN AN ADVERSARY PROCEEDING**

YOU ARE SUMMONED and required to submit a motion or answer to the complaint, which is attached to this summons, to the Clerk of the Bankruptcy Court within 30 days after the date of issuance of this summons, except that the United States and its offices and agencies shall submit a motion or answer to the complaint within 35 days.

**Address of Clerk:**

**United States Bankruptcy Court  
271-C Cadman Plaza East, Suite 1595  
Brooklyn, NY 11201-1800**

At the same time, you must also serve a copy of the motion or answer upon the plaintiff's attorney.

**Name and Address of Plaintiff's Attorney:**

**Norma E Ortiz  
Ortiz & Ortiz LLP  
35-10 Broadway  
Suite 202  
Astoria, NY 11106**

If you make a motion, your time to answer is governed by Bankruptcy Rule 7012.

YOU ARE NOTIFIED that a pretrial conference of the proceeding commenced by the filing of the complaint will be held at the following time and place.

<b>Location:</b> <b>United States Bankruptcy Court, 271-C Cadman Plaza East, Courtroom 3529 – 3rd Floor, Brooklyn, NY 11201-1800</b>	<b>Date and Time:</b> <b>March 24, 2021 at 11:00 AM</b>
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IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT, AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

Dated: January 28, 2021

Robert A. Gavin, Jr., Clerk of the Court

**Summons** [Summons and Notice of Pretrial Conf. rev. 05/27/2016]

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

**JORGE MIGUEL PRIETO,**

Case No. 20-40402-jmm

Chapter 11

Debtor.

-----X

**JORGE MIGUEL PRIETO,**

Plaintiff,

Adv. Proc. No.

-against-

**ROSA PRIETO AND ELMHURST ASSETS  
LLC,**

Defendants.

-----X

**COMPLAINT TO AVOID AND RECOVER TRANSFERS  
PURSUANT TO 11 U.S.C. §§ 547, 548, AND 550**

Plaintiff, Jorge M. Prieto (the "Debtor"), by and through his attorneys Ortiz & Ortiz, LLP, counsel for the Debtor, as and for his complaint against the above-captioned defendants, alleges upon information and belief as follows:

**FACTS**

1. On July 3, 2008 Jorge M. Prieto ("Jorge") and his wife Rosa Prieto ("Rosa") purchased the real property known as 103-08 34<sup>th</sup> Avenue, Corona, New York (the "08 Property") and the real property known as 103-04 34<sup>th</sup> Avenue, Corona, New York (the "04 Property") (collectively referred to as the "Properties"), as husband and wife.

2. On November 24, 2008 Rosa threatened Jorge, among other things, to take their

children away unless Jorge signed a deed that reflected Rosa as owning 99% of the Properties and Jorge as owning 1% of the Properties. Since Jorge and Rosa owned the Properties as tenants by the entirety, Jorge believed that he was transferring nominal title to Rosa.

4. Without Jorge's knowledge and consent, on December 19, 2014, Rosa signed a deed transferring her 99% interest in the Properties to Elmhurst Assets, LLC ("Elmhurst") for \$10.00. Muxiu Li is the owner of Elmhurst.

5. The tax returns filed with New York City in connection with these transactions provide that no tax for the transfer to Elmhurst was due because Rosa was a business partner of Elmhurst.

6. Jorge commenced a divorce proceeding against Rosa in 2015.

7. The Properties are encumbered by mortgage loans. Jorge has utilized the rents he has collected from the Properties to pay the operating costs of the Properties at all times.

8. Jorge is an obligor on the mortgage notes encumbering the Properties. He has complied with the terms of the mortgage notes.

#### AS AND FOR THE FIRST CAUSE OF ACTION

9. The Plaintiff incorporates the allegations contained in the preceding paragraphs as if set forth fully herein.

10. The Debtor did not receive reasonably equivalent value in exchange for the transfer of his interest in the Properties to Rosa and Elmhurst.

11. The Debtor was insolvent on the date that the transfer(s) was made or became insolvent as a result of the Transfer(s); or the Debtor intended to incur, or believed that it would incur, debts that would be beyond its ability to pay as such debts matured.

12. The transfers are avoidable pursuant to 11 U.S.C. Section 548.

AS AND FOR THE SECOND CAUSE OF ACTION

13. Debtor incorporates all preceding paragraphs as if fully re-alleged herein.
14. Debtor is entitled to avoid the transfers pursuant to Sections 547 and 548 of the Bankruptcy Code (collectively, "Avoided Transfers").

THIRD CAUSE OF ACTION

15. Rosa was the initial transferee of the transfers or the immediate or mediate transferee of such initial transferee or the person for whose benefit the transfers were made.

16. Pursuant to Section 550(a) of the Bankruptcy Code, Debtor is entitled to recover the transfers from Defendants, plus interest thereon.

WHEREFORE, the Debtor requests that this Court enter an order granting the relief requester herein and granting such other and further relief as the Court deems just.

**DATED:** New York, New York  
Dece. 17, 2020

*S/Norma E. Ortiz*  
Ortiz & Ortiz, LLP  
35-10 Broadway, Ste. 202  
Astoria, NY 11106  
(718) 522-1117